

REMARKS

Entry of the foregoing amendments to the application is requested on the grounds that the claims, as amended, patentably distinguish over the cited art of record or, alternatively, place the application in better condition for appeal. The claims more particularly point out and distinctly claim the subject matter which Applicants regard as the invention. No new issues have been added which would require further consideration and/or search, nor has any new matter been added. The claims as amended are believed to avoid the rejections applied in the Final Office Action for reasons set forth more fully below.

The Final Office Action of October 28, 2008 has been received and carefully reviewed. It is submitted that, by this Amendment, all bases of rejection and objection are traversed and overcome. Upon entry of this Amendment, claims 10-14 remain in the application. Claim 10 has been amended in order to more clearly identify Applicant's invention. Reconsideration of the claims is respectfully requested. It is submitted that the revisions to claim 10 are fully supported by the application as filed.

At the outset, Applicants' Attorney would like to sincerely thank Examiner Rosati for all the time and courtesies extended during the telephonic interview of January 26, 2009. During the interview, the Examiner indicated that the proposed revised claims, substantially as presented here, should overcome the rejections from the final Office Action, but may necessitate further search and consideration.

Claims 10-14 stand rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. Claims 10-14 also stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner states that "None of the drawings or specification disclose having a tube alone without a collar forming a space for the gasket and tank foot."

Consistent with Figs. 3a-3c, and in accordance with pages 10-11 of the specification (the second full paragraph of page 10 has been clarified herein to be

commensurate in scope with the figures as filed), Applicants have amended claim 10 to state that the “**flat surface of the header pan and** the tube form a gorge **operatively configured to receive the gasket and the tank foot.**”

As such, it is submitted that the §§ 112, first and second paragraph rejections have been traversed and overcome, and withdrawal of the same is respectfully requested.

Claim 10 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Puntambekar et al. (U.S. Patent No. 5,195,581). The Examiner states that Puntambekar et al. disclose a heat exchanger body part, a heat exchanger tank part (12), a header (20), a tube (14) extending from the heat exchanger body part and passing through a slot provided in the header pan, the header pan disposed at an end of the tube, the header pan defining a collar forming a tube ferrule, a tank foot at the end of the tank (50 and 51), a gasket (adhesive material) (70).

Applicants respectfully take issue with the Examiner's interpretation of the collar. The collar shown in Puntambekar does not form a ferrule as recited by Applicants. Unlike the collar of Applicants' invention as recited in the pending claims, the collar identified in the Figure by the Examiner does **not** stiffen the header, given that the collar is not adjacent to the tube, as recited in Applicants' pending claims. Moreover, the tube and the header pan of Puntambekar do not, together, form a gorge for the tank foot and gasket as claimed by Applicant.

In sharp contrast to Applicants' invention as recited in the pending claims, the collar (and any corresponding gorge) of Puntambekar is spaced away from the tube. The collar of Puntambekar does not provide the stiffening characteristics to the header that Applicant's invention as recited in the pending claims provides. The adhesive material and the tank foot of Puntambekar are received in cavity portions which are formed by the bendings (in the headers) that serve no other purpose.

Applicants' invention as recited in the pending claims includes a gorge which is defined by the tube and the header pan, e.g., as shown in Fig. 3c of Applicants' application as filed. Accordingly, unlike Puntambekar, Applicants' invention as

recited in claims 10-14 provides improved packaging capability and provides for a header having stiffening characteristics.

For all the above reasons, it is submitted that Applicants' invention as recited in claim 10 is not anticipated, taught or rendered obvious by Puntambekar, either alone or in combination, and patentably defines over the art of record. Claims 11-14 depend ultimately from claim 10. It is submitted that, through this dependency, Applicants' invention as recited in these claims also is not anticipated, taught or rendered obvious by Puntambekar, either alone or in combination, and patentably defines over the art of record.

In summary, claims 10-14 remain in the application. It is submitted that, through this Amendment, Applicants' invention as set forth in these claims is now in a condition suitable for allowance. Should the Examiner believe otherwise, it is submitted that the claims as amended qualify for entry as placing the application in better form for appeal.

Further and favorable consideration is requested. If the Examiner believes it would expedite prosecution of the above-identified application, he is cordially invited to contact Applicants' Attorney at the below-listed telephone number.

Respectfully submitted,

DIERKER & ASSOCIATES, P.C.

/Julia Church Dierker/

Julia Church Dierker
Attorney for Applicants
Registration No. 33368
(248) 649-9900, ext. 25
juliad@troypatent.com

3331 West Big Beaver Rd., Suite 109
Troy, Michigan 48084-2813
Dated: January 28, 2009
JCD/GMB/jc